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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,495	06/23/2003	Darrell James Shelton	M5015.P001	2225

7590 05/03/2005  
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EXAMINER
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HUYNH, KHOA D

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/602,495	SHELTON, DARRELL JAMES	
	Examiner	Art Unit	
	Khoa D. Huynh	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 45-74 is/are pending in the application.
- 4a) Of the above claim(s) 51-74 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claims 51-74 are directed to an invention or inventions that is/are independent or distinct from the invention originally claimed for the following reasons: claims 51-53 are directed to a non-elected species that is Species IV as depicted in Figs. 4, 6A, 6B, 7). Claims 54-74 are directed to a method that can be practiced by an apparatus that does require a support (seat) portion, a back portion and sloped armrests. Furthermore, the method as claimed in new claims 54-74 does not require the cleaning, inspecting and administering services to the human as claimed in claims 45-50.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 5-74 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 45 and 49, given the broadest reasonable interpretations, are rejected under 35 U.S.C. 102(b) as being anticipated by Wilk (5551098).

Regarding claim 45, the Wilk reference discloses a device (Fig. 5) that cleans an anal region of a human. The device includes a support surface (at 42) supporting the human on its surface, and an aperture (about 68 in Figure 5). Accessing through the aperture does cleaning of the anal region. The aperture provides posterior access to the human to clean it, and the aperture eliminates pressure on a portion (the portion that is not come into contact with the support surface) of the human's buttocks.

Regarding claim 49, the Wilk device (Fig. 5) also allows a person to medically treat him or herself with afflictions such as hemorrhoids and cystitis, thus, when the device is used, medical services are inherently administering to the person, in the forms of cleansing, douching, irrigating using disinfectant agents (col. 2, lines 60-65), through the aperture in the support surface.

3. Claims 45 and 46, given the broadest reasonable interpretations, is rejected under 35 U.S.C. 102(b) as being anticipated by Isbit (6256800).

Regarding claim 45, the Isbit reference discloses a device (Fig. 1) for support a human. The device includes a support surface (at 6) supporting the human on its surface, and an aperture (at 12). The aperture provides posterior access to the human to clean the anal region, and the aperture eliminates pressure on a portion (the portion that is not come into contact with the support surface) of the human's buttocks.

Regarding claim 46, the Isbit reference discloses a device (Fig. 5) for supporting a human. The device includes a support surface (at 6) supporting a

person, and an aperture (at 12) that allows the accessing of the anal region to clean it and, inherently, the visual inspection of the anal region during the cleaning and after the cleaning to make sure that the anal region is indeed cleaned.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka et al. (5201080) in view of Tsipov (5513396).

Regarding claim 46, the Tanaka et al. reference discloses a device (Fig. 1) that allows a human to medically treat him or herself with afflictions such as hemorrhoids and cystitis (col. 5, lines 52-60). The device includes a support surface (at 2) supporting the human on its surface, and an aperture (the opening formed in element 2) that allows the accessing of the posterior region of the human.

The Tanaka et al. reference DIFFERS in that it does not specifically include the inspection of an area of the person as claimed. Attention, however, is directed to the Tsipov reference which discloses device (10) that allows a person using a toilet or a bidet (a device that is used to medically treat a person with afflictions such as hemorrhoids and cystitis) to monitor or inspect the lower parts

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of his or her body. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Tanaka et al device by employing a device that is used to inspect the anal region of a person, in view of teaching of Tsipov, in order to allow the person to visually inspecting the cleaning action while sitting on the support surface.

Regarding claim 47, as stated above, the modified Tanaka et al. device is known to be used to treat afflictions such as hemorrhoids and cystitis, thus, when the device is used, medical services are inherently administering to the person, in the forms of cleansing, douching, irrigating using disinfectant agents (col. 5, lines 52-60), through the aperture in the support surface.

6. Claims 47-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Isbit (as discussed above).

Even though the Isbit reference does not specifically disclose that the human is being administering medical services by someone other than the human as claimed, it would have been obvious to one of ordinary skill in the art to recognize that someone else, such as a relative, a helper or a nurse is obviously capable of being administering medical services, such as treating hemorrhoids and cystitis or decubitus ulcer to the human (or user) by accessing through the aperture in the support surface.

***Response to Amendment***

7. Applicant's amendment, filed on 01/29/2005, to the pending claims is insufficient to distinguish the claimed invention from the cited prior art or overcome the rejections as discussed above.

***Response to Arguments***

8. Also applicant's arguments filed on 01/29/2005 with respect to the pending claims have been fully considered. However, they are deemed not persuasive.

Applicant asserts that the Wilk reference does not teach an aperture that can be accessed by a health care worker as disclosed in the specification. See remarks section, pages 17-19. The examiner is respectfully traversed.

In response to such assertion, it is noted that the features upon which applicant relies (i.e., access by a health care worker) are not recited in the rejected claim 45 and 49. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Thus, the Wilk reference does anticipate the invention as claimed in claims 45 and 49.

Applicant also asserts that there is no suggestion or teaching to combine the references, i.e. Tanaka et al. and Tsipov to arrive at the invention as claimed. See the Remarks section, pages 21-23. The examiner is respectfully traversed.

The examiner recognizes that references cannot be arbitrarily combined and that there must be some reasons why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ

607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA 1969).

In this case, for instance, the Tanaka et al. reference does teach a device including an aperture that allows the accessing of the posterior region of the human (see above rejection) except for the visual inspection as claimed. The Tsipov reference, in the field of endeavor, is applied herein for the teaching of using an inspection device 10 that allows a person using a toilet or a bidet to visually monitor or inspect the lower parts of his or her body. The examiner maintains that such modification, i.e. using a inspection device to visually monitor or inspect the lower parts of the body is well within one of ordinary skill art and is not convinced that the use of such inspection device rises to the level of patentability.

Also applicant's arguments with respect to claims 45-47 have been considered but are moot in view of the new grounds of rejections under 35 U.S.C. 102(b) as being anticipated by Isbit and under 35 U.S.C. 103(a) as being unpatentable over Isbit.

### **Conclusion**

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP



§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

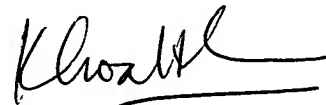
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Khoa D. Huynh', with a horizontal line underneath.

Khoa D. Huynh  
Patent Examiner  
Art Unit 3751

HK  
04/30/2005